IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.8.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.26610 of 2007
and
MP.No.1/2007

M/s.Sai Lalith Fragrance,
Plot B-25, Phase II,
MEPZ, Tambaram,
Chennai - 45. .. Petitioner

vs.

The Commercial Tax Officer,
Tambaram I Asst Circle,
Tambaram .. Respondent

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the proceedings of the respondent in CST/770096/2004-2005 and quash the impugned order, dated 28.4.2006, and further direct the respondent to pass a fresh assessment order after granting reasonable opportunity to the petitioner as contemplated under the provisions of the TNGST Act.

For petitioner : Mr.P.Rajkumar
For respondent : Mr.R.Mahadevan
Additional Government Pleader

O R D E R

Mr.R.Mahadevan, the learned Additional Government Pleader, takes notice for the respondent.

2. With the consent of the learned counsels appearing on either side, the writ petition itself is taken up for final disposal.

3. It is stated by the petitioner Firm that it is manufacturing Aromatic Chemicals and it is a registered dealer on the files of the respondent, under the provisions of The Tamil Nadu General Sales Tax Act, 1959, and The Central Sales Tax Act, 1956. During the assessment year CST 2004-2005, the petitioner had reported a total turnover of

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Rs.1,00,22,580/-, claiming exemption under The Central Sales Tax Act, 1956. The total turnover consists of direct export sales turnover of Rs.91,01,880/- and sales to 100% export oriented unit for Rs.9,20,700/-.

4. It is further stated that inspite of the fact that the petitioner Firm had filed all the necessary documents relating to its export sales and for the sales turnover of Rs.9,20,700/- relating to supplies made to 100% export oriented units to establish the fact that the sales made to them is entitled for exemption, the respondent had proceeded to pass the impugned order without giving a proper opportunity to the petitioner.

5. The respondent has alleged that since the petitioner did not file the Form H and the connected documentary evidence for the above turnover, the impugned order dated 28.4.2006, had been passed by the respondent, in CST/770096/2004-2005.

6. The only contention of the petitioner is that the petitioner Firm ought to have been given an opportunity to produce all the necessary records, including Form H, before the impugned order, dated 28.4.2006, in CST/770096/2004-2005, had been passed.

7. The learned Additional Government Pleader appearing on behalf of the respondent has submitted that necessary opportunity would be given to the petitioner, in accordance with law, if directed by this Court to do so.

8. On such submission being made by the learned Additional Government Pleader, the impugned order, dated 28.4.2006, in CST/770096/2004-2005, and the consequential Urgent Notice, dated 12.7.2007, issued by the respondent, are quashed directing the petitioner Firm to place all the necessary documentary and other evidence before the respondent, within a period of 30 days from today. Thereafter, it is open to the respondent to pass appropriate orders, in accordance with law, after fresh assessment is made thereon based on such evidence.

9. Accordingly, the writ petition is allowed. No costs. Consequentially, M.P.No.1 of 2007 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

The Commercial Tax Officer,
Tambaram I Asst Circle,
Tambaram

+ 1 CC To Mr.P.Rajkumar, Advocate SR NO.51023

+ 1 CC to the Spl. Government Pleader, High Court, Madras SR NO 51274

W.P.No.26610 of 2007 and
MP.No.1/2007

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